

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 532552001140	FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below.	
International application No. PCT/US2004/010388	International filing date (day/month/year) 02/04/2004	(Earliest) Priority Date (day/month/year) 02/04/2003
Applicant CELATOR TECHNOLOGIES INC.		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 5 sheets.



It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

- a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.



The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).



- b. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2.



Certain claims were found unsearchable (See Box II).

3.



Unity of invention is lacking (see Box III).

4. With regard to the **title**,



the text is approved as submitted by the applicant.



the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,



the text is approved as submitted by the applicant.



the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regards to the **drawings**,

- a. the figure of the **drawings** to be published with the abstract is Figure No. 1



as suggested by the applicant.



as selected by this Authority, because the applicant failed to suggest a figure.



as selected by this Authority, because this figure better characterizes the invention.



- b. none of the figures is to be published with the abstract.

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International Application No

PCT/US2004/010388

A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 G01N33/50 A61K39/00 A61K38/00

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 G01N A61K

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data, PAJ, BIOSIS, EMBASE

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	<p>BEPLER G ET AL: "ADDITIVE AND DIFFERENTIAL BIOLOGICAL ACTIVITY OF ALPHA INTERFERON A DIFLUOROMETHYLORNITHINE AND THEIR COMBINATION ON ESTABLISHED HUMAN LUNG CANCER CELL LINES"</p> <p>CANCER RESEARCH, vol. 46, no. 7, 1986, pages 3413-3419, XP009036764 ISSN: 0008-5472 abstract page 3417, left-hand column, last paragraph - right-hand column, last paragraph</p> <p style="text-align: center;">----- -/-</p>	<p>1-16, 22-25</p>

☒ Further documents are listed in the continuation of box C.

☐ Patent family members are listed in annex.

* Special categories of cited documents:

- *A* document defining the general state of the art which is not considered to be of particular relevance
- *E* earlier document but published on or after the international filing date
- *L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- *O* document referring to an oral disclosure, use, exhibition or other means
- *P* document published prior to the international filing date but later than the priority date claimed

- *T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- *X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- *Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- *G* document member of the same patent family

Date of the actual completion of the international search

23 September 2004

Date of mailing of the international search report

07/10/2004

Name and mailing address of the ISA

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Luis Alves, D

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C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT		
Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	<p>OSAKI S-I ET AL: "Alteration of drug chemosensitivity caused by the adenovirus-mediated transfer of the wild-type p53 gene in human lung cancer cells"</p> <p>CANCER GENE THERAPY 2000 UNITED STATES, vol. 7, no. 2, 2000, pages 300-307, XP002297132</p> <p>ISSN: 0929-1903</p> <p>abstract</p>	1-16, 22-25
A	<p>-----</p> <p>VAN'T VEER LAURA J ET AL: "Gene expression profiling predicts clinical outcome of breast cancer"</p> <p>NATURE (LONDON), vol. 415, no. 6871, 31 January 2002 (2002-01-31), pages 530-536, XP002297133</p> <p>ISSN: 0028-0836</p> <p>cited in the application</p> <p>abstract</p> <p>page 534, right-hand column, last paragraph - page 535, left-hand column, paragraph 1</p>	1-16, 22-25
P,X	<p>-----</p> <p>BLUMENTHAL ROSALYN D ET AL: "An in vitro model to optimize dose scheduling of multimodal radioimmunotherapy and chemotherapy: Effects of p53 expression."</p> <p>INTERNATIONAL JOURNAL OF CANCER, vol. 108, no. 2, 10 January 2004 (2004-01-10), pages 293-300, XP009036653</p> <p>ISSN: 0020-7136</p> <p>abstract</p> <p>-----</p>	1-16, 22-25

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

Continuation of Box II.1

Although claim 21 is directed to a method of treatment of the human/animal body, the search has been carried out and based on the alleged effects of the compound/composition. The same remark applies to claims 22 to 25 which encompass method steps carried out on the human/animal body.

Continuation of Box II.2

Claims Nos.: 17-21

The compositions in claims 17 and 18 are defined by reference to a method of preparation which definition does not characterise the "therapeutic agents" neither the "ratio of the first to the second therapeutic agent". The single characterising features which are imparted to the composition by its method of preparation are the presence of two therapeutic agents, each associated with a delivery vehicle. However, the number of compositions which fall within this definition is so large that a meaningful search for said claims is rendered impossible. It is impossible to determine which parts of the claims may be said to define subject-matter for which protection might legitimately be sought (Article 6 PCT).

The same objection applies to the claims defining uses of said compositions, for the same reasons. Therefore, the subject-matter of claims 19 to 21 cannot be searched in a meaningful way.

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guideline C-VI, 8.5), should the problems which led to the Article 17(2) declaration be overcome.

INTERNATIONAL SEARCH REPORT

International application No.
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Box II Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☒ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:

Although claim 21 is directed to a method of treatment of the human/animal body, the search has been carried out and based on the alleged effects of the compound/composition. The same remark applies to claims 22 to 25 which encompass method steps carried out on the human/animal body.
2. ☒ Claims Nos.: 17-21
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:

see FURTHER INFORMATION sheet PCT/ISA/210
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box III Observations where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
- ☐ No protest accompanied the payment of additional search fees.